

OFFICE OF THE
GENERAL COUNSEL

MAY 24 PM 4:00

U.S. PATENT
AND
TRADEMARK OFFICE
ECOLAB INC.,

Plaintiff,

v.

FMC CORPORATION,

Defendant.

6113963

SOLICITOR

MAY 25 2005

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

U.S. PATENT & TRADEMARK OFFICE

RECEIVED

APR 26 2005

CLERK
Civil No. U.S. DISTRICT COURT
MINNEAPOLIS, MINNESOTA

Judge Janet Rosenbaum

Magistrate Judge Franklin Noel

JURY TRIAL DEMANDED

05-831 gmr/PLN

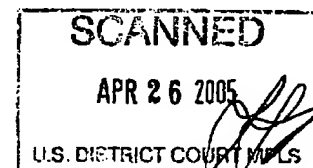
COMPLAINT

Comes now the Plaintiff, and for its Complaint against Defendant, states and alleges as follows:

THE PARTIES

1. Plaintiff, Ecolab Inc., is incorporated in the State of Delaware, having a principal place of business at Ecolab Center, 370 North Wabasha Street, St. Paul, Minnesota 55102.
2. Upon information and belief, Defendant, FMC Corporation, is incorporated in the State of Delaware, having a principal place of business at 1735 Market Street, Philadelphia, Pennsylvania 19103-7597.
3. Plaintiff is engaged in the business of manufacturing, distributing, and selling a wide variety of cleaning and sanitizing products including antimicrobial food surface treatments for use in food processing plants.
4. Defendant is engaged in the business of making and selling a wide variety of industrial chemical products, including cleaning and sanitizing products for use in similar applications.

Pat. # 6,010,729
6,103,286
6,113,903



JURISDICTION

5. This is a claim of patent infringement arising under the Acts of Congress relating to patents, 35 U.S.C. §§ 271 and 282-85.

6. This Court has jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

7. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400.

COUNT I - PATENT INFRINGEMENT

8. Ecolab restates the allegations set forth in paragraphs 1-7 and incorporates them herein by reference.

9. On January 4, 2000, United States Patent No. 6,010,729 (hereinafter "the '729 patent") entitled TREATMENT OF ANIMAL CARCASSES was duly and legally issued to Plaintiff as assignee; and since that date Plaintiff has been, and still is, the owner of all right, title, and interest in the '729 patent. A copy of the '729 patent is attached hereto as Exhibit A.

10. On August 15, 2000, United States Patent No. 6,103,286 (hereinafter "the '286 patent") entitled TREATMENT OF ANIMAL CARCASSES was duly and legally issued to Plaintiff as assignee; and since that date Plaintiff has been, and still is, the owner of all right, title, and interest in the '286 patent. A copy of the '286 patent is attached hereto as Exhibit B.

11. On September 5, 2000, United States Patent No. 6,113,963 (hereinafter "the '963 patent") entitled TREATMENT OF MEAT PRODUCTS was duly and legally issued to Plaintiff as assignee; and since that date Plaintiff has been, and still is, the owner of all right, title, and interest in the '963 patent. A copy of the '963 patent is attached hereto as Exhibit C.

12. Defendant has directly infringed, contributed to the infringement of, and/or induced infringement of the '729, '286, and '963 patents through the manufacture, use, sale,

and/or offer for sale of antimicrobial compositions for use on animal carcasses and meat products including, but not limited to, its FMC - 323 (Peroxyacetic Acid, Acetyl Hydroperoxide) product.

13. Plaintiff has been damaged by Defendant's infringement of said patents and will continue to be damaged in the future unless Defendant is permanently enjoined from infringing said patents, and/or contributing to and/or inducing the infringement of said patents by others.

14. Upon information and belief, Defendant is aware that the '729, '286, and '963 patents were duly and legally issued and that Defendant's use, manufacture, sale, and/or offer for sale of the above-identified antimicrobial compositions infringes said patents, and/or contributes to and/or induces the infringement of said patents by others.

15. Upon information and belief, Defendant's infringement of said patents is now and has been willful and will continue unless enjoined by the Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment that:

A. United States Patent Nos. 6,010,729, 6,103,286, and 6,113,963 are valid and have been infringed by Defendant;

B. Defendant, its officers, agents, servants and employees and those persons in active concert or participation with any of them be enjoined from further infringing, contributing to the infringement, or inducing the infringement of United States Patent Nos. 6,010,729, 6,103,286, and 6,113,963;

C. An accounting be had for the damages arising out of Defendant's infringement of United States Patent Nos. 6,010,729, 6,103,286, and 6,113,963, including treble damages for willful infringement as provided by 35 U.S.C. § 284, with interest;

- D. Defendant be preliminarily and permanently enjoined from continued use, importation, offer for sale, or sale of Defendant's products used to infringe said patents;
- E. Plaintiff be awarded its attorneys' fees, costs, and expenses in this action; and
- F. Plaintiff be awarded such other and further relief as this Court may deem necessary and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury of all issues so triable.

Respectfully submitted,

ECOLAB INC.

by its attorneys,

Dated: 4/26/05



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